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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,519	11/25/2003	Kaustubh Phaltankar	WMA-98-004D1	5144

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WORLDCOM, Inc.  
Technology Law Department  
1133 19th St., NW  
Washington, DC 20036

EXAMINER
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NGUYEN, HANH N

ART UNIT	PAPER NUMBER
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2616

MAIL DATE	DELIVERY MODE
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09/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/720,519

Applicant(s)

PHALTANKAR, KAUSTUBH

Examiner

Hanh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed 8/15/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-111 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 21-32 and 39-111 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15, 18-20, 33-35, 37 and 38 is/are rejected.
- 7) ☒ Claim(s) 16, 17 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/25/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/19/04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

In response to the Response filed by applicant on 8/15/07, claims 13-20 and 33-38 are elected. Claims 1-12, 21-32 and 39-111 are withdrawn.

#### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 13 and 33 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 9, 10, 11, 13, 18, 19, 20 of U.S. Patent No. 6,714,549 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because "the first and the second routers of the patent determine the transmission paths for information signals to be transmitted between the subnetwork and the main network" ; which is similar to " the at least two interface routers of the instant application which selecting transmission path between

the subnetwork and the main network". In addition, the patent further discloses the first router, as an active router, and the second router, as a stand-by router respectively processes their information signals between the main network and subnetwork when one of routers fails ( see claims 9, 10, 18 and 19 in the patent). Further, in claims 11 and 20 of the patent, if one of the switches fails, the failed switched is bypassed . Therefore, it would have been obvious to one skilled in the art to believe that the teachings of the patent disclose similar limitations as shown in the instant application; and establish the same invention as shown in the instant application.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-15, 18-20, 33-35, 37 and 38 are rejected under 35 USC 103(a) as being unpatentable over Byrne ( US Pat. 6229787 B1) in view of Li et al. ( US Pat. 5,473,599) .

In claims 13, 20 and 33, Byrne discloses at least two interface switches ( see fig.4, ATM switches 104, 106) providing connectivity between a subnetwork ( server 108) and a main network (see col.4, lines 50-65; ATM backbone ), wherein, if one of said switches fails, the connectivity otherwise provided by the failed interface switch is provided by another one of said interface switches (see fig.4, fig.5, step 204, 208, 210

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and 212; col.6, lines 10-22 and lines 42- col.7, line 5; when a connection VCC2116 between edge switch /router 102 and ATM switch 106 fails, another connection VCC1 112 is established ); and at least two interface routers ( fig.4, router 102 and router 110), each interface router individually coupled to at least one interface switch (see fig.4; router 102 and router 110, each respectively is coupled to ATM switches 106 and 104), said interface routers selecting a transmission path between the subnetwork and the main network through said interface switches (see col.6, lines 10-22; edge switch/router 102 comprises a forwarding table which choose an alternate path for forwarding the remainder of the session in response to a current path is maked as invalid). Byrne does not disclose if one of said interface touters fails, the selection of transmission paths otherwise provided by the failed interface router is provided by another one of said interface routers.

Li et al. discloses in the abastract that a group of routers including an active router and a stanby router coupled to a LAN. Message from transmitted from a host router in the Lan is via the active router. When the active router fails, the stanby router operates ( see further in figures). Therefore, it would have been obvious to one ordinary skilled in the art implement of teaching of LI et al. into that of Bryne so that when one router coupled to the subnetwork fails, the stanby router is applied to share the load with routers in the subnetwork. The motivation is to flexibility route packet from subnetwork through main network via stanby routers and standby switches. Congestion is reduced.

In claims 14 and 34, Byrne discloses at least two network communication links transporting information signals ( fig.4, physical connections VCC1 112 and VCC2 116)

between the interface architecture ( edge switch 102) and the main network ( ATM backbone), wherein, if one of said network communication links fails, another one of the network communication links transports the information signals that would otherwise be transported by the failed communication link ( see fig.5, steps 204, 208, 210 and 212;p col.6, lines 42 to col.7, line 5).

In claims 18 and 37, Byrne discloses a plurality of permanent virtual circuits (PVCs) defining dedicated logical transmission paths from each of said interface routers to each node in the main network through at least one of said interface switches (see fig.4; links VCC1 and VCC2).

In claims 19 and 38, Byrne discloses each node of the main network is a signal router designating transmission paths for information signals transported through the main network ( see fig.4, col.5, lines 55-67; edge switch/router 102 is used to setup/ establish a session with server 108 via links 112, 114 via ATM switch 104); and wherein each of said interface routers are fully meshed with the signal routers in the main network ( router 102 and router 110 are coupled to switches 104, 106).

In claims 15 and 35, Byrne does not disclose the network communication links include two optical connection links. It is a well-known in the art to implement the links VCC1 and VCC2 to operate in an optical network because in ATM network, data is transmitted at high speed.

***Allowable Subject Matter***

Claims 16, 17, 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Greaves et al. ( US pat. 6396815 B1).

Burns ( US pat. 6,490,245 B2).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Nguyen whose telephone number is 571 272 3092. The examiner can normally be reached on Monday-Thursday from 8:30 to 4:30. The examiner can also be reached on alternate

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild, can be reached on 571 272 2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Hanh Nguyen

A handwritten signature in black ink, appearing to read 'Hanh Nguyen'.

**HANH NGUYEN  
PRIMARY EXAMINER**